



# House of Representatives

General Assembly

**File No. 316**

January Session, 2015

House Bill No. 6707

*House of Representatives, March 31, 2015*

The Committee on Labor and Public Employees reported through REP. TERCYAK of the 26th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

**AN ACT CONCERNING THE LOSS OF AN OPERATOR LICENSE DUE TO A DRUG OR ALCOHOL TESTING PROGRAM AND UNEMPLOYMENT BENEFITS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-225a of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2015*):

3 (a) As used in this chapter, "qualified employer" means each  
4 employer subject to this chapter whose experience record has been  
5 chargeable with benefits for at least one full experience year, with the  
6 exception of employers subject to a flat entry rate of contributions as  
7 provided under subsection (d) of this section, employers subject to the  
8 maximum contribution rate under subsection (c) of section 31-273, and  
9 reimbursing employers; "contributing employer" means an employer  
10 who is assigned a percentage rate of contribution under the provisions  
11 of this section; "reimbursing employer" means an employer liable for  
12 payments in lieu of contributions as provided under section 31-225;  
13 "benefit charges" means the amount of benefit payments charged to an

14 employer's experience account under this section; "computation date"  
15 means June thirtieth of the year preceding the tax year for which the  
16 contribution rates are computed; "tax year" means the calendar year  
17 immediately following the computation date; "experience year" means  
18 the twelve consecutive months ending on June thirtieth; and  
19 "experience period" means the three consecutive experience years  
20 ending on the computation date, except that if the employer's account  
21 has been chargeable with benefits for less than three years, the  
22 experience period shall consist of the greater of one or two consecutive  
23 experience years ending on the computation date.

24 (b) (1) The administrator shall maintain for each employer, except  
25 reimbursing employers, an experience account in accordance with the  
26 provisions of this section. (2) With respect to each benefit year  
27 commencing on or after July 1, 1978, regular and additional benefits  
28 paid to an individual shall be allocated and charged to the accounts of  
29 the employers who paid [him] the individual wages in his or her base  
30 period in accordance with the following provisions: The initial  
31 determination establishing a claimant's weekly benefit rate and  
32 maximum total benefits for his or her benefit year shall include, with  
33 respect to such claimant and such benefit year, a determination of the  
34 maximum liability for such benefits of each employer who paid wages  
35 to the claimant in his or her base period. An employer's maximum  
36 total liability for such benefits with respect to a claimant's benefit year  
37 shall bear the same ratio to the maximum total benefits payable to the  
38 claimant as the total wages paid by the employer to the claimant  
39 within his or her base period bears to the total wages paid by all  
40 employers to the claimant within his or her base period. This ratio  
41 shall also be applied to each benefit payment. The amount thus  
42 determined, rounded to the nearest dollar with fractions of a dollar of  
43 exactly fifty cents rounded upward, shall be charged to the employer's  
44 account.

45 (c) (1) (A) Any week for which the employer has compensated the  
46 claimant in the form of wages in lieu of notice, dismissal payments or  
47 any similar payment for loss of wages shall be considered a week of

48 employment for the purpose of determining employer chargeability.  
49 (B) No benefits shall be charged to any employer who paid wages of  
50 five hundred dollars or less to the claimant in his or her base period.  
51 (C) No dependency allowance paid to a claimant shall be charged to  
52 any employer. (D) In the event of a natural disaster declared by the  
53 President of the United States, no benefits paid on the basis of total or  
54 partial unemployment which is the result of physical damage to a  
55 place of employment caused by severe weather conditions including,  
56 but not limited to, hurricanes, snow storms, ice storms or flooding, or  
57 fire except where caused by the employer, shall be charged to any  
58 employer. (E) If the administrator finds that (i) an individual's most  
59 recent separation from a base period employer occurred under  
60 conditions which would result in disqualification by reason of  
61 subdivision (2), (6) or (9) of subsection (a) of section 31-236, or (ii) an  
62 individual was discharged for violating an employer's drug testing  
63 policy, provided the policy has been adopted and applied consistent  
64 with sections 31-51t to 31-51aa, inclusive, section 14-261b and any  
65 applicable federal law, no benefits paid thereafter to such individual  
66 with respect to any week of unemployment which is based upon  
67 wages paid by such employer with respect to employment prior to  
68 such separation shall be charged to such employer's account, provided  
69 such employer shall have filed a notice with the administrator within  
70 the time allowed for appeal in section 31-241. (F) No base period  
71 employer's account shall be charged with respect to benefits paid to a  
72 claimant if such employer continues to employ such claimant at the  
73 time the employer's account would otherwise have been charged to the  
74 same extent that he or her employed him or her during the individual's  
75 base period, provided the employer shall notify the administrator  
76 within the time allowed for appeal in section 31-241. (G) If a claimant  
77 has failed to accept suitable employment under the provisions of  
78 subdivision (1) of subsection (a) of section 31-236 and the  
79 disqualification has been imposed, the account of the employer who  
80 makes an offer of employment to a claimant who was a former  
81 employee shall not be charged with any benefit payments made to  
82 such claimant after such initial offer of reemployment until such time

83 as such claimant resumes employment with such employer, provided  
84 such employer shall make application therefor in a form acceptable to  
85 the administrator. The administrator shall notify such employer  
86 whether or not his or her application is granted. Any decision of the  
87 administrator denying suspension of charges as herein provided may  
88 be appealed within the time allowed for appeal in section 31-241. (H)  
89 Fifty per cent of benefits paid to a claimant under the federal-state  
90 extended duration unemployment benefits program established by the  
91 federal Employment Security Act shall be charged to the experience  
92 accounts of the claimant's base period employers in the same manner  
93 as the regular benefits paid for such benefit year. (I) No base period  
94 employer's account shall be charged with respect to benefits paid to a  
95 claimant who voluntarily left suitable work with such employer (i) to  
96 care for a seriously ill spouse, parent or child or (ii) due to the  
97 discontinuance of the transportation used by the claimant to get to and  
98 from work, as provided in subparagraphs (A)(ii) and (A)(iii) of  
99 subdivision (2) of subsection (a) of section 31-236. (J) No base period  
100 employer's account shall be charged with respect to benefits paid to a  
101 claimant who has been discharged or suspended because the claimant  
102 has been disqualified from performing the work for which he or she  
103 was hired due to the loss of such claimant's operator license as a result  
104 of a drug or alcohol test or testing program conducted in accordance  
105 with section 14-44k, 14-227a or 14-227b while the claimant was off  
106 duty.

107 (2) All benefits paid which are not charged to any employer shall be  
108 pooled.

109 (3) The noncharging provisions of this chapter, except subdivisions  
110 (1)(D) and (1)(F) of this subsection, shall not apply to reimbursing  
111 employers.

112 (d) The standard rate of contributions shall be five and four-tenths  
113 per cent. Each employer who has not been chargeable with benefits, for  
114 a sufficient period of time to have his or her rate computed under this  
115 section shall pay contributions at a rate that is the higher of (1) one per

116 cent, or (2) the state's five-year benefit cost rate. For purposes of this  
 117 subsection, the state's five-year benefit cost rate shall be computed  
 118 annually on or before June thirtieth and shall be derived by dividing  
 119 the total dollar amount of benefits paid to claimants under this chapter  
 120 during the five consecutive calendar years immediately preceding the  
 121 computation date by the five-year payroll during the same period. If  
 122 the resulting quotient is not an exact multiple of one-tenth of one per  
 123 cent, the five-year benefit cost rate shall be the next higher such  
 124 multiple.

125 (e) (1) As of each June thirtieth, the administrator shall determine  
 126 the charged tax rate for each qualified employer. Said rate shall be  
 127 obtained by calculating a benefit ratio for each qualified employer. The  
 128 employer's benefit ratio shall be the quotient obtained by dividing the  
 129 total amount chargeable to the employer's experience account during  
 130 the experience period by the total of his or her taxable wages during  
 131 such experience period which have been reported by the employer to  
 132 the administrator on or before the following September thirtieth. The  
 133 resulting quotient, expressed as a per cent, shall constitute the  
 134 employer's charged tax rate. If the resulting quotient is not an exact  
 135 multiple of one-tenth of one per cent, the charged rate shall be the next  
 136 higher such multiple, except that if the resulting quotient is less than  
 137 five-tenths of one per cent, the charged rate shall be five-tenths of one  
 138 per cent and if the resulting quotient is greater than five and four-  
 139 tenths per cent, the charged rate shall be five and four-tenths per cent.  
 140 The employer's charged tax rate will be in accordance with the  
 141 following table:

T1	Employer's Charged Tax Rate Table	
T2		
T3		Employer's Charged
T4	Employer's Benefit Ratio	Tax Rate
T5	.005 or less	.5% minimum subject
T6	.006	.6% to fund
T7	.007	.7% solvency
T8	.008	.8% adjustment

T9	.009	.9%
T10	.010	1.0%
T11	.011	1.1%
T12	.012	1.2%
T13	.013	1.3%
T14	.014	1.4%
T15	.015	1.5%
T16	.016	1.6%
T17	.017	1.7%
T18	.018	1.8%
T19	.019	1.9%
T20	.020	2.0%
T21	.021	2.1%
T22	.022	2.2%
T23	.023	2.3%
T24	.024	2.4%
T25	.025	2.5%
T26	.026	2.6%
T27	.027	2.7%
T28	.028	2.8%
T29	.029	2.9%
T30	.030	3.0%
T31	.031	3.1%
T32	.032	3.2%
T33	.033	3.3%
T34	.034	3.4%
T35	.035	3.5%
T36	.036	3.6%
T37	.037	3.7%
T38	.038	3.8%
T39	.039	3.9%
T40	.040	4.0%
T41	.041	4.1%
T42	.042	4.2%
T43	.043	4.3%

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T44	.044	4.4%
T45	.045	4.5%
T46	.046	4.6%
T47	.047	4.7%
T48	.048	4.8%
T49	.049	4.9%
T50	.050	5.0%
T51	.051	5.1%
T52	.052	5.2%
T53	.053	5.3%
T54	.054 & higher	5.4% maximum subject
T55		to fund solvency
T56		adjustment

142       (2) (A) Each contributing employer subject to this chapter shall pay  
 143 an assessment to the administrator at a rate established by the  
 144 administrator sufficient to pay interest due on advances from the  
 145 federal unemployment account under Title XII of the Social Security  
 146 Act (42 U.S. Code Sections 1321 to 1324). The administrator shall  
 147 establish the necessary procedures for payment of such assessments.  
 148 The amounts received by the administrator based on such assessments  
 149 shall be paid over to the State Treasurer and credited to the General  
 150 Fund. Any amount remaining from such assessments, after all such  
 151 federal interest charges have been paid, shall be transferred to the  
 152 Employment Security Administration Fund or to the Unemployment  
 153 Compensation Advance Fund established under section 31-264a, (i) to  
 154 the extent that any federal interest charges have been paid from the  
 155 Unemployment Compensation Advance Fund, (ii) to the extent that  
 156 the administrator determines that reimbursement is appropriate, or  
 157 (iii) otherwise to the extent that reimbursement of the advance fund is  
 158 the appropriate accounting principle governing the use of the  
 159 assessments. Sections 31-265 to 31-274, inclusive, shall apply to the  
 160 collection of such assessments.

161       (B) On and after January 1, 1994, and conditioned upon the issuance

162 of any revenue bonds pursuant to section 31-264b, each contributing  
163 employer shall also pay an assessment to the administrator at a rate  
164 established by the administrator sufficient to pay the interest due on  
165 advances from the Unemployment Compensation Advance Fund and  
166 reimbursements required for advances from the Unemployment  
167 Compensation Advance Fund, computed in accordance with  
168 subsection (h) of section 31-264a. The administrator shall establish the  
169 assessments as a percentage of the charged tax rate for each employer  
170 pursuant to subdivision (1) of this subsection. The administrator shall  
171 establish the necessary procedures for billing, payment and collection  
172 of the assessments. Sections 31-265 to 31-274, inclusive, shall apply to  
173 the collection of such assessments by the administrator. The payments  
174 received by the administrator based on the assessments, excluding  
175 interest and penalties on past due assessments, are hereby pledged and  
176 shall be paid over to the State Treasurer for credit to the  
177 Unemployment Compensation Advance Fund.

178 (f) (1) For each calendar year commencing with calendar year 1994  
179 but prior to calendar year 2013, the administrator shall establish a fund  
180 balance tax rate sufficient to maintain a balance in the Unemployment  
181 Compensation Trust Fund equal to eight-tenths of one per cent of the  
182 total wages paid to workers covered under this chapter by  
183 contributing employers during the year ending the last preceding June  
184 thirtieth. If the fund balance tax rate established by the administrator  
185 results in a fund balance in excess of said per cent as of December  
186 thirtieth of any year, the administrator shall, in the year next following,  
187 establish a fund balance tax rate sufficient to eliminate the fund  
188 balance in excess of said per cent. For each calendar year commencing  
189 with calendar year 2013, the administrator shall establish a fund  
190 balance tax rate sufficient to maintain a balance in the Unemployment  
191 Compensation Trust Fund that results in an average high cost multiple  
192 equal to 0.5. Commencing with calendar year 2014 and ending with  
193 calendar year 2018, the administrator shall establish a fund balance tax  
194 rate sufficient to maintain a balance in the Unemployment  
195 Compensation Trust Fund that results in an average high cost multiple  
196 that is increased by 0.1 from the preceding calendar year. Commencing

197 with calendar year 2019, the administrator shall establish a fund  
198 balance tax rate sufficient to maintain a balance in the Unemployment  
199 Compensation Trust Fund that results in an average high cost multiple  
200 equal to 1.0. If the fund balance tax rate established by the  
201 administrator results in a fund balance in excess of the amount  
202 prescribed in this subdivision as of December thirtieth of any year, the  
203 administrator shall, in the year next following, establish a fund balance  
204 rate sufficient to eliminate the fund balance in excess of said amount.  
205 The assessment levied by the administrator at any time (A) during a  
206 calendar year commencing on or after January 1, 1994, but prior to  
207 January 1, 1999, shall not exceed one and five-tenths per cent, (B)  
208 during a calendar year commencing on or after January 1, 1999, shall  
209 not exceed one and four-tenths per cent, and shall not be calculated to  
210 result in a fund balance in excess of eight-tenths of one per cent of such  
211 total wages, and (C) during a calendar year commencing on or after  
212 January 1, 2013, shall not exceed one and four-tenths per cent and shall  
213 not be calculated to result in a fund balance in excess of the amounts  
214 prescribed in this subdivision.

215 (2) The average high cost multiple shall be computed as follows:  
216 The result of the balance of the Unemployment Compensation Trust  
217 Fund on December thirtieth immediately preceding the new rate year  
218 divided by the total wages paid to workers covered under this chapter  
219 by contributing employers for the twelve months ending on the  
220 December thirtieth immediately preceding the new rate year shall be  
221 the numerator and the average of the three highest calendar benefit  
222 cost rates in (A) the last twenty years, or (B) a period including the last  
223 three recessions, whichever is longer, shall be the denominator. Benefit  
224 cost rates are computed as benefits paid including the state's share of  
225 extended benefits but excluding reimbursable benefits as a per cent of  
226 total wages in covered employment. The results rounded to the next  
227 lower one decimal place will be the average high cost multiple.

228 (g) Each qualified employer's contribution rate for each calendar  
229 year after 1973 shall be a percentage rate equal to the sum of his or her  
230 charged tax rate as of the June thirtieth preceding such calendar year

231 and the fund balance tax rate as of December thirtieth preceding such  
232 calendar year.

233 (h) (1) With respect to each benefit year commencing on or after July  
234 1, 1978, notice of determination of the claimant's benefit entitlement for  
235 such benefit year shall include notice of the allocation of benefit  
236 charges of the claimant's base period employers and each such  
237 employer shall be mailed a copy of such notice of determination and  
238 shall be an interested party thereto. Such determination shall be final  
239 unless the claimant or any of such employers files an appeal from such  
240 decision in accordance with the provisions of section 31-241. (2) The  
241 administrator shall, not less frequently than once each calendar  
242 quarter, mail a statement of charges to each employer to whose  
243 experience record any charges have been made since the last previous  
244 such statement. Such statement shall show, with respect to each week  
245 for which benefits have been paid and charged, the name and Social  
246 Security account number of the claimant who was paid the benefit, the  
247 amount of the benefits charged for such week and the total amount  
248 charged in the quarter. (3) The statement of charges provided for in  
249 subdivision (2) of this subsection shall constitute notice to the  
250 employer that it has been determined that the benefits reported in such  
251 statement were properly payable under this chapter to the claimants  
252 for the weeks and in the amounts shown in such statements. If the  
253 employer contends that benefits have been improperly charged due to  
254 fraud or error, a written protest setting forth reasons therefor shall be  
255 filed with the administrator within sixty days of the mailing date of the  
256 quarterly statement. An eligibility issue shall not be reopened on the  
257 basis of such quarterly statement if notification of such eligibility issue  
258 had previously been given to the employer under the provisions of  
259 section 31-241, and he failed to file a timely appeal therefrom or had  
260 the issue finally resolved against him or her. (4) The provisions of  
261 subdivisions (2) and (3) of this subsection shall not apply to combined  
262 wage claims paid under subsection (b) of section 31-255. For such  
263 combined wage claims paid under the unemployment law of other  
264 states, the administrator shall, each calendar quarter, mail a statement  
265 of charges to each employer whose experience record has been

266 charged since the previous such statement. Such statement shall show  
267 the name and Social Security number of the claimant who was paid the  
268 benefits and the total amount of the benefits charged in the quarter.

269 (i) (1) At the written request of any employer which holds at least  
270 eighty per cent controlling interest in another employer or employers,  
271 the administrator may mingle the experience rating records of such  
272 dominant and controlled employers as if they constituted a single  
273 employer, subject to such regulations as the administrator may make  
274 and publish concerning the establishment, conduct and dissolution of  
275 such joint experience rating records. (2) The executors, administrators,  
276 successors or assigns of any former employer shall acquire the  
277 experience rating records of the predecessor employer with the  
278 following exception: The experience of a predecessor employer, who  
279 leased premises and equipment from a third party and who has not  
280 transferred any assets to the successor, shall not be transferred if there  
281 is no common controlling interest in the predecessor and successor  
282 entities. (3) The administrator is authorized to establish such  
283 regulations governing joint accounts as may be necessary to comply  
284 with the requirements of the federal Unemployment Tax Act.

285 (j) (1) Each employer subject to this chapter shall submit quarterly,  
286 on forms supplied by the administrator, a listing of wage information,  
287 including the name of each employee receiving wages in employment  
288 subject to this chapter, such employee's Social Security account  
289 number and the amount of wages paid to such employee during such  
290 calendar quarter.

291 (2) Commencing with the first calendar quarter of 2014, each  
292 employer subject to this chapter who reports wages for employees  
293 receiving wages in employment subject to this chapter, and each  
294 person or organization that, as an agent, reports wages for employees  
295 receiving wages in employment subject to this chapter on behalf of one  
296 or more employers subject to this chapter shall submit quarterly the  
297 information required by subdivision (1) of this subsection on magnetic  
298 tape, diskette, or other similar electronic means which the

299 administrator may prescribe, in a format prescribed by the  
300 administrator, unless such employer or agent receives a waiver  
301 pursuant to subdivision (5) of this subsection.

302 (3) Any employer that fails to submit the information required by  
303 subdivision (1) of this subsection in a timely manner, as determined by  
304 the administrator, shall be liable to the administrator for a late filing  
305 fee of twenty-five dollars. Any employer that fails to submit the  
306 information required by subdivision (1) of this subsection under a  
307 proper state unemployment compensation registration number shall  
308 be liable to the administrator for a fee of twenty-five dollars. All fees  
309 collected by the administrator under this subdivision shall be  
310 deposited in the Employment Security Administration Fund.

311 (4) Commencing with the first calendar quarter of 2014, each  
312 employer subject to this chapter who makes contributions or payments  
313 in lieu of contributions for employees receiving wages in employment  
314 subject to this chapter, and each person or organization that, as an  
315 agent, makes contributions or payments in lieu of contributions for  
316 employees receiving wages in employment subject to this chapter on  
317 behalf of one or more employers subject to this chapter shall make  
318 such contributions or payments in lieu of contributions electronically.

319 (5) Any employer or any person or organization that, as an agent,  
320 submits information pursuant to subdivision (2) of this subsection or  
321 makes contributions or payments in lieu of contributions pursuant to  
322 subdivision (4) of this subsection may request in writing, not later than  
323 thirty days prior to the date a submission of information or a  
324 contribution or payment in lieu of contribution is due, that the  
325 administrator waive the requirement that such submission or  
326 contribution or payment in lieu of contribution be made electronically.  
327 The administrator shall grant such request if, on the basis of  
328 information provided by such employer or person or organization and  
329 on a form prescribed by the administrator, the administrator finds that  
330 there would be undue hardship for such employer or person or  
331 organization. The administrator shall promptly inform such employer

332 or person or organization of the granting or rejection of the requested  
333 waiver. The decision of the administrator shall be final and not subject  
334 to further review or appeal. Such waiver shall be effective for twelve  
335 months from the date such waiver is granted.

336 (k) The employer may inspect his or her account records in the  
337 office of the Employment Security Division at any reasonable time.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2015	31-225a

**LAB**      *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

**Explanation**

The bill allows employers under certain circumstances to discharge or suspend an employee without those actions counting toward an employer's unemployment taxes (a "non-charge"). The state and municipalities are not subject to the unemployment tax and therefore this does not result in any fiscal impact.

Furthermore, this does not result in any fiscal impact to the Unemployment Compensation Fund as the cost of benefits paid to a former employee under "non-charge" circumstances are combined and paid by all employers who pay unemployment taxes.

**The Out Years**

**State Impact:** None

**Municipal Impact:** None

**OLR Bill Analysis****HB 6707*****AN ACT CONCERNING THE LOSS OF AN OPERATOR LICENSE DUE TO A DRUG OR ALCOHOL TESTING PROGRAM AND UNEMPLOYMENT BENEFITS.*****SUMMARY:**

This bill expands the circumstances under which a private-sector employer can discharge or suspend an employee without affecting the employer's unemployment taxes. It creates a "non-charge" against an employer's experience rate for employees discharged or suspended because they failed a drug or alcohol test while off duty and subsequently lost a driver's license needed to perform the work for which they had been hired. (The law disqualifies a person from operating a commercial motor vehicle for one year if he or she is convicted of driving under the influence (DUI.)) In effect, this allows the discharged or suspended employee to collect unemployment benefits without increasing the employer's unemployment taxes.

The bill also makes minor and technical changes.

EFFECTIVE DATE: October 1, 2015

**UNEMPLOYMENT EXPERIENCE RATES AND NON-CHARGES**

In general, a significant portion of a private-sector employer's unemployment insurance taxes are based on the employer's "experience rate," which reflects the amount of unemployment benefits paid to the employer's former employees. Typically, laying off employees leads to a higher experience rate and thus higher unemployment taxes for the employer. The law, however, allows several non-charging separations in which an employee can collect benefits without affecting a former employer's experience rate (e.g., voluntarily leaving work to care for a seriously ill spouse, parent, or

child).

The bill expands the non-charging separations to include instances when an employee is laid off because he or she lost his or her driver's license because of a drug or alcohol testing program conducted under state DUI laws while off duty, and as a result, is disqualified from performing the work for which he or she had been hired. In these instances, as with all non-charges, the cost of the benefits paid to the former employee are "pooled" and paid by all employers who pay unemployment taxes.

### **COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable

Yea 13      Nay 0      (03/12/2015)